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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/777,465	02/11/2004	Eric Lann	022038-000300US	2236
20350 7590 04/21/2008 TOWNSEND AND TOWNSEND AND CREW, LLP TWO EMBARCADERO CENTER EIGHTH FLOOR SAN FRANCISCO, CA 94111-3834				
EXAMINER				
PAYER, HWEI SIU CHOU				
ART UNIT		PAPER NUMBER		
3724				
MAIL DATE		DELIVERY MODE		
04/21/2008		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/777,465

Applicant(s)

LINN ET AL.

Examiner

Hwei-Siu C. Payer

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 2-8-08.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1, 6-8, 11, 12, 14-22 and 24 -26 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 6-8, 11, 12, 14-22 and 24-26 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 20 January 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

Detailed Action

The amendment filed on 2-8-2008 has been entered.

Claims Objection

Claims 1, 6-8, 11, 12, 14-18, 22 and 25 are objected to because of the following informalities:

(1) In claims 1 and 11, line 14, "a closed position" should read --the closed position--. Note lines 4-5 of the claims.

(2) In claim 18, line 12, "a closed position" should read --the closed position--. Note lines 6-7 of the claim.

(3) In claim 18, line 14, "the user" should read --a user--.

(4) In claim 22, line 12, "said interfitted portion" should read --said portion--.

(5) In claim 25, line 6, "the housing" should read --the handle--.

Appropriate correction is required.

Claims Rejection - 35 U.S.C. 103(a)

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1, 6-8, 11, 12, 14-22 and 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Glesser (U.S. Patent Application Publication No. 2004/004510) in view of McHenry et al. (U.S. Patent No. 6,122,829).

Glesser discloses a folding knife (2, see Figs.4-7 and paragraphs [0030] to [0031]) comprising a handle (4); a blade (6) pivotally connected to the handle (4); a locking mechanism (24,32) pivotally connected to the handle (4) and directly engaging the blade (6) to lock the blade (6) in a closed position (see Fig.5); wherein the locking mechanism (24,32) and a protrusion (36) are located near a base portion (16) of the blade (6); wherein the protrusion (36) extends from the handle (4) and the locking mechanism (24,32) includes a recess (i.e. the ratcheting slot, see paragraph [0031]) for mating with the protrusion (36) when the locking mechanism (24,32) is in a locked position (see Fig.5), wherein the locking mechanism (24,32) further includes a male portion (26) for mating with a blade female portion (40) when the blade (6) is in a closed position (note Fig.5) and when the locking mechanism (24,32) is in a locked position (note Fig.5); wherein the locking mechanism (24,32) includes a tab (i.e. the portion of the locking lever 32 that is accessible from the finger depression 38, see Fig.6 and lines 10-11 of paragraph [0030]); wherein the locking mechanism (24,32) further includes a pivot pin (30) for rotation within the handle (4), and wherein the blade female portion (40) is positioned along a sharpened edge side (14) of the blade (6) substantially as claimed.

The mere difference between Glesser and the claimed invention resides in that Glesser's locking mechanism does not need to be manually switched to an open position before the blade can be extended from the closed position.

McHenry et al. teaches it is desirable to have a blade of a folding knife locked in its closed/retracted position and capable of being moved to an open/extended position only upon a locking mechanism is manually switched to an open/unlock position before the blade can be extended from the closed position (see column 5, lines 48-52).

Thus, it would have been obvious to one skilled in the art to modify Glesser's folding knife so that it requires the locking mechanism to be manually switched to an open position before the blade can be extended from a closed position to prevent accidental opening of the blade from the closed position to an open position as taught by McHenry et al.

3. Claims 25 and 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chu (U.S. Patent No. 6,729,029).

Chu discloses a folding knife comprising a handle (10); a blade (20) pivotally connected to the handle (10); a first locking mechanism (41) connected to the handle (10) to lock the blade (20) in a closed position (Fig.5); and a second locking mechanism (13) located within the handle (10) to lock the blade (20) in an opened position (Fig.4); wherein the first locking mechanism (41) and a protrusion (422) are located near a base (21) of the blade (20), wherein the protrusion (422) extends from the handle (10) and the first locking mechanism (41) includes a recess (411) for mating with the protrusion (422) when the first locking mechanism (41) is in a locked position (see Fig.5); the first

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locking mechanism (41) includes a male portion (413) for mating with a blade female portion (27) when the blade (20) is in a closed position (Fig.5) and when the first locking mechanism (41) is in the locked position; and the first locking mechanism (41) further includes a tab (412) for manipulating the first locking mechanism (41) substantially as claimed except Chu's first locking mechanism (41) is "slidably" rather than "pivotally" connected to the handle (10).

The claimed "pivotally" connected is not patentably distinct over Chu's "slidably" connected because as long as the first locking mechanism (41) is fully capable of locking the blade (20) in a closed position, the manner in which the first locking mechanism (41) is connected to the handle (10), whether is "slidably" or "pivotally", depends more upon an obvious matter of design choice than on any inventive concept.

Remarks

Applicant's arguments with respect to claims 1, 6-8, 11, 12, 14-18 and 22 have been considered but are moot in view of the new ground(s) of rejection.

Action Made Final

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP

§ 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Point of Contact

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hwei-Siu C. Payer whose telephone number is 571-272-4511. The examiner can normally be reached on Monday through Friday, 7:00 am to 4:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Boyer Ashley can be reached on 571-272-4502. The fax phone numbers for the organization where this application or proceeding is assigned are 571-273-8300 for official communications and 571-273-4511 for proposed amendments.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only.

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For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

H Payer
April 21, 2008

/Hwei-Siu C. Payer/
Primary Examiner, Art Unit 3724